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**DATE:** February 7, 1983

**MATTER OF:** Dixie Business Machines, Inc.

## DIGEST:

Protest based on agency's failure to send protester solicitation, which was publicized in the Commerce Business Daily, is untimely, since it was filed more than 10 days after basis of protest was known. This issue does not fall under the significant issue exception to our timeliness rules because it is not a matter of widespread interest to the procurement community and it has been the subject of previous GAO decisions.

Dixie Business Machines, Inc. (Dixie), protests its failure to receive General Services Administration (GSA) invitation for bids (IFB) No. GSD-7DPR-30002.

The IFB was issued on June 4, 1982, for repair and maintenance of electric typewriters at locations throughout the States of Arkansas, Iowa, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma and Texas. GSA advised in its report on the protest that the IFB was publicized in the Commerce Business Daily (CBD) on June 14, 1982, and indicated that bids would be opened July 1, 1982.

We dismiss the protest as untimely filed.

Our Bid Protest Procedures require that protests be filed with the General Accounting Office (GAO) or the contracting agency within 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2 (1982).

As noted above, the June 14, 1982, issue of the CBD indicated that the closing date was July 1, 1982. We have held that publication of a procurement in the CBD constitutes constructive notice of the solicitation and its contents. Houston Fearless 76, B-199935, September 18, 1980, 80-2 CPD 206; Delphi Industries, Inc., 58 Comp. Gen. 248 (1979), 79-1 CPD 67. Therefore, Dixie's protest of its

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failure to receive the solicitation, filed on September 8, 1982, is untimely and will not be considered on its merits since it was filed more than 10 working days after the closing date, July 1, 1982. See The Bureau of National Affairs, Inc., B-189962, September 20, 1977, 77-2 CPD 206, and Lutz Superdyne, Inc., B-201553, February 20, 1981, 81-1 CPD 122.

Dixie contends that if its protest is untimely, it should be considered under our "significant issue" exception, 4 C.F.R. § 21.2(c) (1982). We stated in Sequoia Pacific Corporation, B-199583, January 7, 1981, 81-1 CPD 13, that:

"In order to invoke the significant issue exception to our timeliness rules, the subject matter of the protest must not only evidence a matter of widespread interest or importance to the procurement community, see e.g., Williamette-Western Corporation; Pacific Towboat and Salvage Co., 54 Comp. Gen. 375 (1974), 74-2 CPD 259, but must also involve a matter which has not been considered on the merits in previous decisions. CSA Reporting Corporation, 59 Comp. Gen. 338 (1980), 80-1 CPD 225; Wyatt Lumber Company, B-196785, February 7, 1980, 80-1 CPD 108; Garrison Construction Company, Inc., B-196959, February 26, 1980, 80-1 CPD 159."

This exception must be strictly construed and sparingly used to prevent our timeliness rules from being rendered meaningless. The protest here does not fall within the exception. The failure of a firm to receive a solicitation is not of widespread interest to the procurement community, and it has been the subject of a number of GAO decisions, such as Xtra Helpers, B-183744, August 8, 1975, 75-2 CPD 99.

Accordingly, we dismiss the protest.

*Harry R. Van Cleve*  
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Acting General Counsel